

The Honorable Lucille Roybal-Allard of California

The Honorable Gerry Connolly of Virginia

The Honorable Ted Lieu of California

The Honorable Norma Torres of California

Thank you for your attention to these appointments.

Sincerely,

NANCY PELOSI,
Democratic Leader.

APPOINTMENT OF MEMBER TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. The Chair announces the Speaker's appointment, pursuant to 22 U.S.C. 6913, and the order of the House of January 3, 2017, of the following Member on the part of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LIEU, California.

SUPREME COURT NOMINATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2017, the gentleman from Maryland (Mr. RASKIN) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. RASKIN. Mr. Speaker, I ask unanimous consent that all participating Members have 5 legislative days to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. RASKIN. Mr. Speaker, on behalf of the Congressional Progressive Caucus and my partner in this Special Order hour, Congresswoman JAYAPAL from the State of Washington, I rise to discuss the imminent Senate filibuster against President Trump's nomination of Neil Gorsuch to the U.S. Supreme Court.

Ordinarily, a Supreme Court nomination like this would be an all-consuming public matter. It has gotten a little bit less attention because there is so much going on all over the globe. The world is on fire today. We see outrageous atrocities taking place in Syria under the so-called leadership of President Assad. We see here in America a government in turmoil, as every day the curtain is drawn back just a little bit further on the Russian connection with the Trump White House.

But we do need to take some time to focus on the U.S. Supreme Court if for no other reason than what we have in America today is one-party control of the U.S. House of Representatives, the U.S. Senate, the White House, and, if the Supreme Court goes, too, we essentially have no meaningful multiparty democracy in terms of the essential governance of the country.

Now, as the Senate takes up the President's nomination of Neil Gorsuch

to the Court, I have heard a number of officials and commentators criticize the effort taking place in the Senate over the last few days and into the next few days to stop Gorsuch. I have heard them criticize it by invoking the aphorism "two wrongs don't make a right." Of course, they are referring to the fact that President Obama's nomination of Merrick Garland, the Chief Judge of the D.C. Circuit Court of Appeals to the U.S. Supreme Court, was stonewalled for 9 months in the last year of President Obama's Presidency.

Judge Garland didn't even receive a hearing. It never got to the point that there was a vote. He would have loved the opportunity to have someone filibuster his nomination on the floor of the Senate. His nomination never got to the floor of the Senate. He never had a hearing in committee—completely unprecedented in our history simply to stonewall, obstruct, and sandbag a judicial nominee like this. I will have something to say about the qualifications of Judge Garland.

But, in any event, the Democrats now are saying: We are not going to proceed with the nomination of Judge Gorsuch; we are going to block it. In answer, I hear repeatedly from U.S. Senators and commentators this phrase: Two wrongs don't make a right. Of course, that truism is true. But what does this excellent piece of folk wisdom have to do with the current situation of the nomination of Gorsuch to the Supreme Court?

If you saw someone punching out a security guard and running into a bank to rob the bank, it would be legally and morally wrong for you to go punch out another security guard at a bank across the street and go rob that bank. Two wrongs, indeed, do not make a right. You don't solve one bank robbery by committing another. But if you saw someone punching out a security guard and running into a bank to go rob it and you decided to run after the robber, pounce on him, and punch him out, that would be completely legally and morally justified.

In other words, stopping the original wrong is not in itself a wrong. Stopping the original wrong is right. That is the right thing to do, and that is what the Democrats are doing. They are trying to block a crime in progress because, understand, we have never, in American history, seen something like a President send a nomination to the Supreme Court to the U.S. Senate to fill a seat probably for 20 or 30 years and the Senate just says simply: We are not going to have any hearings about it. That is exactly what they did to Judge Merrick Garland.

□ 1715

Let me just say a few words about him before I turn it over to my colleague, Congresswoman JAYAPAL.

Judge Garland is, arguably, one of the two or three most experienced and qualified judges ever to be nominated to the Supreme Court. He graduated

summa cum laude from Harvard College and magna cum laude from Harvard Law School.

After serving as a law clerk to Judge Henry Friendly of the U.S. Court of Appeals for the Second Circuit, and then Justice William Brennan on the U.S. Supreme Court, he practiced law at Arnold & Porter here in Washington; and he worked as a Federal prosecutor in the Department of Justice, where he played a leading role in the investigation and prosecution of the Oklahoma City bombers and the investigation and prosecution of Ted Kaczynski, the Unabomber.

He has had nearly 20 years of judicial experience on the D.C. Circuit Court of Appeals. The Senate originally confirmed him in an overwhelming 76-23 vote, where he not only swept the Democratic Caucus in the Senate, but won the majority of Republicans when he first went on the court.

His nomination to the Supreme Court fell victim to the GOP Senate leadership's rule-or-ruin mentality that is ravaging the most basic norms of American political democracy in this century. If Garland could not be confirmed to the U.S. Supreme Court, then no moderate liberal judge can be.

Some people have suggested that Gorsuch should be filibustered for exactly 9 months, which is the length of time that the GOP used to run out the clock on the Merrick Garland nomination. In other words, he was blockaded for 9 months. Therefore, blockade Gorsuch for 9 months, then have a vote on him.

This apparently symmetrical answer would certainly make President Trump's nominee twist in the wind and suffer the way that President Obama's nominee twisted in the wind and suffered, but that is not the point. It is not to inflict pain on the nominee. The real problem is not 9 months of legislative obstructionism, much less retribution for what was inflicted on one judge.

The real question is: Who gets to have the seat on the Supreme Court?

It is about the next 25 years of Supreme Court decisionmaking. That seat, by all rights, belongs not to Judge Gorsuch, but, rather, to Judge Merrick Garland.

Judge Gorsuch, however qualified he might be in terms of his own career, would present a jurisprudence dramatically to the right of the jurisprudence that would clearly be advanced by the addition of Judge Garland to the court. That is what we are going to talk about tonight.

I am going to begin by turning it over to a great champion of justice, the Constitution, and the Bill of Rights for all the people, my distinguished colleague and the vice chair of the Progressive Caucus.

Mr. Speaker, I yield to the gentleman from Washington (Ms. JAYAPAL).

Ms. JAYAPAL. Mr. Speaker, I thank my good colleague from Maryland (Mr.

RASKIN). It has been such a pleasure since coming to Congress—and it seems difficult to believe that it has been almost 3 months—but it has been such a pleasure to co-lead this Special Order hour with the gentleman and to really bring to the public all of the issues that we feel are so important in the Progressive Caucus, issues that have ranged from the issue we are talking about now with the Supreme Court nomination, to issues around health care, immigration, the Muslim ban, and many others.

I think that the vision that we are trying to make sure people understand for the Progressive Caucus and certainly for Democrats is a vision of inclusion, a vision that respects the rights of everybody, regardless of what gender you are, regardless of what race or religion you might be.

This moment is, in fact, very important. Tomorrow, Senate Republicans will attempt to push through President Trump's Supreme Court nominee Neil Gorsuch. I stand with my colleague, Mr. RASKIN, and with our other Democratic colleagues in the Senate who are opposing this nomination because I truly believe that confirming Neil Gorsuch to this position would be a devastating backslide for numerous communities.

I want to go through some of the communities that would be affected and how. Women, people of color, people living with disabilities and members of the LGBTQ community will have to wonder if the conservative majority on the Supreme Court is going to systematically remove their protections and strip them of their rights.

Unfortunately, Neil Gorsuch, though an accomplished justice in his own right, does have a track record of doing that throughout his judicial career. So this isn't as simple as saying: Well, you blocked our nominee; therefore, we are going to block your nominee.

No. This is about the issues and the refusal he has had to answer some of the questions before the committee.

I did want to reflect briefly on the fact that yesterday was Equal Pay Day. Ninety-four days into the year, Equal Pay Day symbolizes the amount of extra time that it takes for a woman to earn the same amount as a man. We have got to work—I see the heads nodding up there in the Chamber—extra hard for an additional 3 months and some days in order to earn the same wages as a man.

When you break it down by race, the gap widens even further. Black women working full time year round only earn 63 cents to the dollar. For them, Equal Pay Day comes on July 31. Latina women earn a mere 54 cents, which means that their Equal Pay Day—get this—is November 2.

Over a lifetime, the financial losses that women face due to this gap are immense. On average, a 20-year-old woman will lose \$418,000 over the course of her 40-year career. For Black women, they will lose \$840,000. Latinas will lose more than \$1 million.

Now, why do I bring this up in the context of Judge Gorsuch?

Because I believe that as we mark Equal Pay Day, we need to know that we will have a Supreme Court Justice who will, in fact, crack down on the gender pay gap and enforce the law.

Unfortunately, Judge Gorsuch has a history of prioritizing big business over people. In fact, he has ruled in favor of employers in two-thirds of the employment and labor disputes that have been brought before him on the basis of discrimination. Let's be clear: Equal Pay Day and the situation that women face is about discrimination.

Gorsuch ruled against an African-American man who claimed that he was fired because of racial discrimination in *Johnson v. Oklahoma Department of Transportation*.

In *Poindexter v. Board of County Commissioners of the County of Sequoyah*, he ruled against a man who argued that he was demoted because of his political views.

His opinion in *Strickland v. UPS* was particularly troubling. The court ruled in favor of a female employee who had been discriminated against based on sex. Judge Gorsuch, though, wrote a dissenting opinion, despite the fact that the woman's male colleagues testified that she was required to attend counseling sessions while they were not, even though she was out performing them.

The court ruled in her favor, but, again, Judge Gorsuch, President Trump's nominee to the Supreme Court of the United States of America, went out of his way to undermine her.

Perhaps the clearest example of Gorsuch's affinity for big business was his ruling in the *Hobby Lobby* case, which many people across the country may know about. He ruled that private corporations should enjoy the same constitutional protections as people.

Not only are people being told that the money of corporations represents protected speech, but women across this country are being told that those corporations can make decisions about women's health care and their rights to make decisions about their own body. This case sent a clear signal that Judge Gorsuch is no friend of women's reproductive rights.

It isn't a surprise, frankly, that this President chose him, because he does fit right into this administration's all-out assault that we have seen since the beginning of this Congress on women's rights to make decisions about their bodies and their health care.

Judge Gorsuch wrote a concurring opinion arguing that the Affordable Care Act forced employers to violate their religious beliefs by providing birth control. It is our right to choose whether and when we want to have families. But rather than coming to the conclusion that corporations should be required to allow women to make their own healthcare decisions, Judge Gorsuch made it very clear that he stands with big business and against women's rights.

His appointment is a deep threat to something that I have appreciated my whole life and that women before me have fought for so hard. His appointment is a threat to *Roe v. Wade*, which has protected women's rights to abortion access.

Trump has said many times that he intended to appoint a Justice who would overturn *Roe v. Wade*. While being questioned in his confirmation hearing, Judge Gorsuch sidestepped all of the questions on this issue, but his views are obvious. He has questioned and argued against the legal foundation of a woman's right to choose, and he has been critical of the decisions of *Roe v. Wade*'s and its reliance on the right to privacy and the substantive due process rationale.

That is unacceptable. *Roe v. Wade* is the law of the land, and it has helped save the lives of millions of women across our country. We need to make sure that we protect that right to choose and continue to allow abortion access in this country.

Judge Gorsuch has also taken actions that signal his support for the defunding of Planned Parenthood. Of course, we remember the doctored videos that came out to destroy Planned Parenthood's image. Utah Governor Gary Herbert attempted to defund the organization, but the tenth circuit issued an injunction. Gorsuch stood with the Governor. He even went so far as to push for a rehearing by the full court, without being asked by the Governor. The court refused. Gorsuch issued then a dissenting opinion that relied on the very fallacies that the Governor was pushing.

We cannot afford to have this critical vote on the Supreme Court go to someone who so clearly intends to undermine women's fundamental and constitutional rights.

Judge Gorsuch has also shown that he presents a threat to the LGBT community. In 2005, he wrote that people should rely on the ballot box to achieve marriage equality.

During his confirmation hearing, he was asked about cases that involve LGBT people as a class. This qualification is important because it adds heightened scrutiny. Apparently, Gorsuch was not comfortable with this, because he dodged the question. That is alarming. Our LGBT community does face discrimination at extremely high rates. This is not a speculation; it is fact.

Gorsuch could not even give a straight answer when Senator DIANNE FEINSTEIN asked if he agreed with Justice Scalia that there is "no protection for women or gays or lesbians under the equal protection law."

With States around the country attempting to pass discriminatory bills, it is crucial that we have a Supreme Court Justice who will apply that heightened scrutiny.

Finally, people living with disabilities are also fearful of this appointment and the possibility that Judge

Gorsuch might be our next Supreme Court Justice.

In *Luke P.*, a case involving a severely autistic student, Judge Gorsuch ruled that a State can provide an education offering minimal educational progress to students with disabilities.

Rather than requiring States to fulfill their responsibilities under the Individuals with Disabilities Education Act, Judge Gorsuch was satisfied with putting a student's learning potential at severe risk. In the middle of his confirmation hearing, the current Supreme Court unanimously overruled his decision.

What does that say about his judgment? Do we want a Supreme Court who gets it wrong on so many issues?

Judge Gorsuch should not be appointed to the Supreme Court. The fact that Senate Republicans are threatening the nuclear option if Democrats filibuster his appointment is just terrifying. It would have long-lasting consequences, and it is inappropriate to select a man for this key position to the United States Supreme Court who makes decisions about so many issues that affect all Americans across our country.

It is not right that they would make that on a purely partisan ideological basis. There should be a 60-vote threshold. We should make sure that they understand that, if they do this and they go to the nuclear option, it will have long-lasting consequences for them in their districts, in their offices, and also for the entire country.

□ 1730

Mr. RASKIN. Mr. Speaker, I thank Congresswoman JAYAPAL for that excellent discussion of the pro-choice question and other jurisprudence.

Mr. Speaker, I yield to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I am really grateful to the gentleman for yielding but also for organizing this Special Order on something that really is special: Who is going to sit on the Supreme Court, and how do we deal with Judge Neil Gorsuch's nomination? Of course, we in the House don't have a vote, but we certainly do have the privilege to be able to weigh in on something as important as this in this manner. So I do appreciate the opportunity.

Judge Gorsuch's nomination to the Supreme Court is the latest battle in the Republicans' war on women and workers. I will find myself agreeing and probably repeating some of what Congresswoman JAYAPAL has said, but I think it bears repeating.

First of all, let me say we should make no mistake: this is a stolen Supreme Court seat. Senate Republicans demonstrated unprecedented—meaning never before in history—disrespect for the President of the United States, Barack Obama, and our Constitution by denying Judge Merrick Garland a vote or even a hearing when he was put

into nomination by President Obama. That has never, ever happened before in our history.

Last year, Republicans ignored their constitutional duty by denying Judge Garland a hearing. By the way, he had been approved by the Congress in the past for a seat on the district court, and he had praise on both sides of the aisle. So it wasn't a question of his being qualified or not. It was they did not want the ability of Barack Obama to even nominate someone and have him considered for the Supreme Court.

So now they want to break the rules of the Senate to rush their own nominee through. This is a nomination to the United States Supreme Court, the highest body in the land, the highest Court in the land. The decisions the next Justice takes part in will affect Americans for decades, if not centuries, because it could set precedent. Given the importance of this position, Senators have the right to insist on a 60-vote threshold for ending the debate on the nominee, and Senate Democrats should insist on 60 votes because Judge Gorsuch has demonstrated time and time again that he has put the interest of corporations above Americans—I will describe that later—whether it is worker safety or a woman's access even to contraception.

I am going to talk for a minute about women. President Trump said he would nominate a judge to overturn *Roe v. Wade*, the 1973 decision that said, as a matter of privacy, that women could make their own decisions about terminating a pregnancy. Women take that threat very seriously. Judge Gorsuch talked about precedents he likes, like *Brown v. Board of Education*, integrating the schools. I agree with him on that. But tellingly, when he mentioned the precedents that he reveres, he certainly did not give *Roe v. Wade* the same status.

Judge Gorsuch's judicial record should add to our concern. After the 10th Circuit panel ruled against the State of Utah's attempt to defund Planned Parenthood following the release of deceptively edited videos, Judge Gorsuch called for the full court to hear the case, presumably to overturn the decision. Judge Gorsuch was in the minority in this instance, and his request was dismissed.

In the *Hobby Lobby* case, Judge Gorsuch sided against women, allowing bosses to deny their women employees contraception as part of health coverage.

Now I want to talk a little bit about workers. In many other cases, Judge Gorsuch has prioritized the interest of employers over the rights of workers. He blocked a woman in Colorado from going to trial on sexual harassment claims because she didn't report the harassment quickly enough.

Judge Gorsuch denied a professor with leukemia at Kansas State University protection under the Rehabilitation Act. He sided with a mining company after a worker was electrocuted

due to inadequate safety training. He sided with a trucking company that fired a trucker driving through Illinois—that is my State—who decided to leave his broken trailer instead of freezing to death, literally. The truck was down, couldn't get started, and his choice was to sit there with the truck or to be able to go to safety in freezing temperatures.

Fortunately for workers, Judge Gorsuch was in the minority in some of those cases, but we can't count on him being in the minority once he is on the Supreme Court. His dangerous antiwoman, antiworker views should not be elevated to our highest court.

So I urge my Democratic colleagues in the Senate to stand strong against the Gorsuch nomination. And to Senate Republicans, it was disrespectful to the Constitution to block Judge Garland. I am not even saying necessarily that he would have been approved, but to not even offer him a hearing or a vote was disrespectful to our Constitution, and it is disrespectful to the traditions of the Senate to force Judge Gorsuch through now.

We don't want to break the rules to get one nominee through, especially not a nominee who puts critical protections for Americans at risk. Women are watching. Workers are watching. And on Friday, all Americans will know whose side the Senate is on and whose side the Senate Republicans are on. Everyone is paying attention.

Mr. RASKIN. Mr. Speaker, I thank the gentlewoman from Illinois for those excellent comments. As we have been discussing this evening, there is an egregious process problem with the nomination of Judge Gorsuch, and there is an egregious substantive problem with it.

The process problem, of course, is that the seat properly belongs to Judge Merrick Garland, the chief judge of the D.C. Circuit Court of Appeals, who was denied, extraordinarily, even a hearing for a 9-month period. The justification for that offered by Senator McConnell was that he felt that the people should speak in the 2016 election. Of course, President Obama was President. The Senate was the Senate. The people had spoken in the 2012 and 2014 elections. But they said they wanted the people to speak.

Well, the interesting thing, of course, is that the people spoke, and 2.9 million more people voted for the candidate who said she would appoint someone to the Court who was pro-choice, pro-Bill of Rights, pro-civil liberties, and not the Justice promised by Donald Trump, someone who would reverse *Roe v. Wade* and stand by Citizens United and the corporatization of the Supreme Court. So the people spoke.

The other problem, the substantive problem, is that Judge Gorsuch adds to what has come to be called the corporate majority on the corporate Court. Corporations win; workers lose.

Corporations win; investors lose. Corporations win; consumers lose. Repeatedly. Time after time in the Roberts Court, the jurisprudence of the Court is defined by the identity of the parties, which is completely antithetical to our whole concept of rule of law and constitutional justice.

Mr. Speaker, I yield to the very thoughtful gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Speaker, I thank the distinguished gentleman from the great State of Maryland, a well respected theorist and professor who has been such an addition to the Committee on the Judiciary.

Let me say something not out of arrogance or even difficult pride because pride goes before the fall, but I do believe the Committee on the Judiciary in this Congress—both the House and the Senate—has, at this moment, the highest responsibility for truth. I don't think there should be one moment of partisanship in our committee. Certainly I am delighted to be here with you and the Congressional Progressive Caucus, but we both serve on the Committee on the Judiciary, and our ranking member, Mr. CONYERS, is a member of the Congressional Progressive Caucus. I believe that we are here, as was the Congressional Black Caucus just a few days ago, because it really behooves us to be able to speak to an important point that I think that I would like to make, a brief point.

First, I would like to indicate that none of this reflects on Mr. Gorsuch's personality, character, or standing as a member of the judiciary who has served in the 10th Circuit for any number of years or the many accolades that he received from colleagues, but it does go to the question of the temperament and the ability to withstand the easy way of making decisions where you feel most comfortable. That is not the Supreme Court.

The Supreme Court is to be able to look at the proceedings of the lower courts, but also the facts, and make decisions regardless of where you stand politically in your former life or where you feel comfortable in your philosophy. And so my concern, and the reason why I think there is courageous actions by my colleagues in the other body as they proceed to filibuster—and filibuster sounds like an ugly word. It sounds like here they go again, what obstructionists. But let me be very clear. I have had the privilege to either read about great jurists, or I have either lived through that period of time, and they were not all appointed by Democrats. I am certainly a great admirer of Chief Justice Warren, who led the Court for a number of years, a Republican, and certainly I have watched Justice Kennedy for a period of time and many others. But listen to the Leadership Conference on Civil Rights; I want to take their words: "Judge Gorsuch's decade-long record on the Federal bench, as well as his writings, speeches, and activities throughout his

career, demonstrate he is a judge with an agenda. His frequent dissents and concurrences show he is out of the mainstream of legal thought. . . ."

Now when we say mainstream, we are not suggesting that we dictate what he wants to do, but the mainstream is where the American people are. They are on Main Street, no matter who they are.

"... the mainstream of legal thought and unwilling to accept the constructs of binding precedent and stare decisis"—that is a key element, not willing to accept what has been accepted by so many—"when they dictate results he disfavors. If confirmed to the Supreme Court, which is closely divided on many critical issues, Judge Gorsuch would tip the balance in a direction that would undermine many of our core rights and legal protections."

So let me make these two points in joining my colleague. The most indicting decision where Judge Gorsuch was in the dissent—let me see if the American people can understand this decision where, in fact, if I am correct, the gentleman prevailed in the lower court, I believe, and this is the truck driver, the freezing truck driver who was freezing one night when the cargo part of his big, huge 18-wheeler was attached to a bad working—I am trying to be a trucker here now—cab that he sits in. The brakes didn't work.

□ 1745

I know a lot of truckers, and that is absolutely zero. You just don't drive—icy roads, freezing. He tried to wait on the repair guys. They did not come. He knew that if he had attached the large part of the 18-wheeler that it would be dangerous, and he might lose his life. He drove the cab off and he was fired. His legs had been freezing. He had been there for a long period of time.

Judge Gorsuch wound up being the dissenter on a decision that favored not somebody's personality or "I am a union member judge." No. It was about the fact that he said employers could just fire you for whatever reason whatsoever.

The plaintiff has not been able to work for 7 years. It has impacted his whole life. But the other members of the court thought that he had a legitimate reason and did everything that he could. That is Main Street.

My final point is that we are in a very unique and challenging time. There are investigations going on regarding this administration, and we really don't know where the truth will wind up.

There are suggestions by committees—not this Member or not the distinguished Congressman that is on the floor here with me—that crimes have been perpetrated, criminal acts, someone may go to jail. I believe Judge Gorsuch should not be confirmed until we determine the conclusion of the investigations against the Trump administration. This is not biased. This is not about picking one side versus another.

I just want to remind my colleagues: Would it happen if it were President Obama? Would it happen if it were President George W. Bush? Would it happen if it were President Clinton? These are the Presidents I have had the privilege of serving with. No, it would not.

You cannot be the person who selects the person to a lifelong position on the Supreme Court and your whole administration, the context of the White House, is totally under investigation, including your former national security adviser for lying to the Vice President of the United States of America, your allegations that your former President wiretapped you, which has been disapproved by the FBI Director. I don't think so, and I don't think we can go forward.

So I would say that the nomination of Judge Gorsuch should be filibustered as it is. I am saddened by the fact that it has to be filibustered. I would hope that Mr. MCCONNELL could pull it down, that the President would understand that the whole nomination process was compromised. There was no consultation with the Democrats, as all Presidents have done. And, frankly, we call it: We are not ready; we are not prepared; we are unready, if you will, to go forward with a nomination by this President who is under complete investigation by the FBI and various intelligence agencies in the United States.

Mr. RASKIN. Mr. Speaker, I thank the gentlewoman from Texas for those extraordinary comments. Congresswoman LEE makes me think about the partisan identification of Supreme Court nominees because it is a relatively recent phenomena that we identify them as Democrats or Republicans.

Many of my favorite Supreme Court Justices were appointed to the Supreme Court by Republican Presidents. Justice Sutor, of course, was appointed by the first President Bush. He was an exceptional Justice, who earned the ire, unfortunately, of the Republicans because he voted with the majority in *Planned Parenthood v. Casey*, affirming a woman's right to choose an abortion in consultation with her physician and her family and because he voted in *Lee v. Weisman* to prevent religious prayers from taking place at public school graduation ceremonies.

The rhetoric then in the Republican Party was, "No more Sutors," despite the fact that he had been nominated by a Republican President. "No more Sutors" is what they said.

Or Justice Kennedy, who has been an exceptional Justice when it comes to vindicating the constitutional rights and equality of the LGBT Americans. He was the one who authored the decision in *Lawrence v. Texas*, overruling *Bowers v. Hardwick*, saying that the State of Texas and other States could not arrest, prosecute, and incarcerate gay people simply for their relationships. He wrote that.

He also was the author of the Supreme Court's magnificent decision in the Obergefell case, determining that equal protection means that States cannot discriminate against gay and lesbian citizens in the institution of marriage—and there is no going back on that.

But, of course, the rhetoric on the other side now, because it has got to be turned into a partisan football, is, "No more Kennedys." "No more Kennedys." "No more Suitors." Why? Because they did their jobs as Justices. "We want people like Neil Gorsuch who are going to tow the line every step along the way."

Neil Gorsuch is someone that they are convinced will be part of both the attempt to dramatically reduce or abolish the privacy rights of the people, turn the clock back on the equal rights of the LGBT community but, also, more importantly, participate in what has been called the development of the corporate court Neil Gorsuch.

Now, that is a long-running development. But the critical moment came in 2010 with the *Citizens United* decision. Understand, the traditional doctrine for two centuries was that a corporation is, in the words of Chief Justice John Marshall from the 1819 decision in the *Dartmouth College v. Woodward* case, he said, "an artificial being, invisible, intangible, existing only in contemplation of law," not possessing the constitutional political rights of the people. But in *Citizens United*, a deeply divided 5-4 Supreme Court found for the first time in our history that for-profit business corporations enjoy the political free speech rights of the people.

So what did that mean as a practical matter? Because, after all, before, the CEOs could spend whatever they wanted of their own money independently in a political campaign—see *Buckley v. Valeo*; the members of the board, the corporate executives, could spend whatever they wanted independently in a political campaign—see *Buckley v. Valeo*; they could contribute up to the limits—see *Buckley v. Valeo*; now they can contribute to every Member of Congress and every Member of Congress' opponent because of a recent decision handed down by the Supreme Court.

But there is one thing they couldn't do: The CEOs could not take money directly out of the corporate treasury to spend in politics. But the *Citizens United* majority gave them that power.

This breached an understanding that had been in place for centuries that the most conservative Justices on the Court adhered to. Chief Justice Rehnquist, a very conservative judge, said that corporations are magnificent vehicles for the accumulation and investment of wealth, and they have worked great for the economy, but they are very dangerous if you allow them to cross the line from economics to politics.

Justice White, a very conservative Justice, appointed by a Democrat,

President Kennedy, said that corporations are endowed with all kinds of special attributes, like perpetual life of the corporation, the limited liability of the shareholders, and all kinds of legal trappings and subsidies. He said: The corporation is the creature of the State, and the State need not permit its own creature to consume it, to devour it.

So we had a doctrine, which is that corporations could be confined to the economic realm. They could not convert all of the wealth and power they accumulate in economics into political power. But that is what the Supreme Court did in *Citizens United*.

But it didn't stop there. Because now the question became, as the Tenth Circuit Court of Appeals put it: If a corporation has political rights, if a for-profit business corporation has political rights, why doesn't a for-profit business corporation have the religious rights of the people? And that became the *Hobby Lobby* decision in 2014.

Hobby Lobby was a for-profit business corporation, not a religious entity, not a church, not a mosque. It was a business corporation. And it was not organized for religious purposes. It was organized for profitmaking purposes. Yet the corporate leadership said: We don't want to participate in the provision of contraceptive care for our employees under the Affordable Care Act. We don't want to do that. We assert the religious rights of the corporation.

Now, stop and think about that for a second. From the standpoint of most religions, it is pure blasphemy to say that a corporation should have religious rights. As James Madison put it back when he wrote his famous remonstrance against religious taxation: The religious rights of the people are sacred in our system because they are between the person and God, they are between the believer and God. The government doesn't get involved; corporations aren't involved; and all of these other artificial entities aren't involved. It is between the person and his or her religious faith or worship.

But beyond the blasphemy of it, think about what this means. What it means is that a business corporation can say that it does not want to participate in the provision of contraceptives to their employees, thereby violating the rights of their employees.

If a corporation can exercise its newly found religious conscience to say that it doesn't want to provide contraceptives to employees, why can't the corporations say: Well, it also violates our rights to compel us to serve people on an interfaith or interracial basis; that offends our religious beliefs, too, as a corporation? Where does this doctrine end?

Now, why do we raise this? Because Judge Gorsuch was part of the majority which determined that corporations have a religious conscience, have a religious soul. He has been part of the spiritual ennoblement of business corporations to the detriment of workers

and consumers and other people who have to deal with this newfound corporate power.

Judge Gorsuch seems like a good guy. He is right out of central casting, but he is being put on the Court to participate in the greatest concentration of corporate power, jurisprudence, and thinking on the Supreme Court in its entire history, with the possible exception of the *Lochner* period. Of course, in the *Lochner* period, in the early 20th century, the Supreme Court began to slash away at child labor laws, at laws protecting the rights of people to belong to unions, at any kind of social regulation, saying that violated due process.

Well, today, the First Amendment, where religious freedom played the same role that due process played during the *Lochner* period, they become a catchall rubric for the Court to strike down the laws of the people and to benefit big corporate power against the rights of actual human beings, like the people who lost their contraceptive care in the *Hobby Lobby* case because some of the corporate lawyers representing *Hobby Lobby* had the bright idea to assert that the corporation was protected by the Religious Freedom Restoration Act. And, of course, Judge Gorsuch went along for the ride, with all of the other corporate judges and the justices on the corporate court.

Mr. Speaker, there is one category of judges in our Federal judiciary that merit the Appalachian Justice, who are called "Justice." Everybody else is called "Your Honor" or "Judge." But the people who go on the Supreme Court get to be called "Justice." It means something.

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There is a massive injustice taking place here because of the outrageous sandbagging, stonewalling, and obstruction of the D.C. Circuit Court Chief Judge Merrick Garland, who was denied even a hearing in the U.S. Senate. Now there is an attempt to tilt the Court for the next 15, 20, or 30 years with the appointment of Judge Gorsuch to the corporate bloc.

So here in the House of Representatives, of course, we do not enjoy the power of advice and consent; but a number of us simply wanted to say this evening that we stand very strongly in solidarity with those Members of the Senate who are exercising their constitutional duties by trying to filibuster this nomination, which is conceived in a wrong, in an attempt to steal a Supreme Court seat and, if it were to be accomplished, would be destined simply to add to a rightwing pro-corporate majority on the Roberts Court.

Mr. Speaker, I yield back the balance of my time.

THE SUPREME COURT AND THE RIGHT TO LIFE

The SPEAKER pro tempore (Mr. BIGGS). Under the Speaker's announced